

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	No. 05-CV-329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**APPLICATION FOR HEARING ON TUESDAY, MARCH 25, 2008, ON
“STATE OF OKLAHOMA’S MOTION FOR EXTENSION OF
TIME TO COMPLY WITH CERTAIN REQUIREMENTS OF
THE AMENDED SCHEDULING ORDER [DKT #1376]” [DKT #1618]**

Comes now the Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA (“the State”), and respectfully applies to this Court for a hearing on Tuesday, March 25, 2008, on the State of Oklahoma’s Motion for Extension of Time to Comply with Certain Requirements of the Amended Scheduling Order [DKT #1618]. In support of this application, the State states as follows:

1. Under the Amended Scheduling Order [DKT #1376], the State is required to disclose its non-damages experts on April 1, 2008.
2. The State’s possible need for an extension of this deadline was discussed with the Court at the January 30, 2008 hearing. At this hearing, the State informed the Court that it might need additional time to complete its expert reports beyond the April 1, 2008 deadline and did not want the Court to be misled as to that issue. The Court stated that “We are not going to hold you to anything related to the April 1 date at this point.” (Tape of 1/30/08 hearing.)

3. Additionally and perhaps most importantly, the process of preparing and prosecuting Plaintiff's Motion for a Preliminary Injunction effectively halted much of the work of the State's experts in forming their final opinions and the preparation of their final reports. (DKT #1373). Prior to its filing, the motion required intensive preparation, including the involvement of a majority of the State's experts. It was filed on November 14, 2007. After filing, it was intensively litigated through the completion of the hearing on March 12, 2008. The resources dedicated to this necessary endeavor substantially impaired the State's ability to meet the April 1 deadline.

4. For the reasons set forth in the State of Oklahoma's Motion for Extension of Time to Comply with Certain Requirements of the Amended Scheduling Order [DKT #1618], the State, despite its diligence, cannot reasonably meet the April 1, 2008 deadline. Faced with this deadline, the State continues to work on what at this point is an impossible task. Accordingly, the State requests resolution of this issue at the earliest possible date.

5. This Court, by its March 17, 2008 Minute Order [DKT #1634], has ordered Defendants to respond to the State's Motion by March 25, 2008. The Court further stated in that Minute Order that it would "issue [an] order or set [the motion] for hearing as warranted at that time." *See* DKT #1634.

6. Given the urgent need for immediate resolution of the matter raised in the State's Motion, upon the filing of Defendants' response, the State therefore applies to this Court for a hearing on its Motion that same day (i.e., Tuesday, March 25, 2008).

7. The State is prepared to make the necessary call-in arrangements for a telephonic hearing if an in-court hearing is not feasible based on the Court's schedule.

8. The State has spoken to Scott McDaniel, counsel for Peterson Farms, who stated that on behalf of Peterson Farms, he objected to the hearing being the same day that their response is due, but would not object to it being conducted the following day. He further stated that in light of it being Good Friday, he was unable to contact the other counsel and take a position as to the other Defendants.

WHEREFORE, in light of the foregoing, the State's application should be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 21st day of March, 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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